

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

DON BLANKENSHIP,

Plaintiff,

v.

CIVIL ACTION NO. 2:19-00236
(Hon. John T. Copenhaver, Jr., Senior Judge)

HON. ANDREW NAPOLITANO (RET.), et al.,

Defendants.

THE CHARLESTON GAZETTE-MAIL's
MOTION TO DISMISS

Defendant Charleston Gazette-Mail hereby moves to dismiss the claims in the First Amended Complaint alleged against it for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the *Federal Rules of Civil Procedure*. For the reasons stated in the Memorandum in Support filed contemporaneously herewith, the motion should be granted.

CHARLESTON GAZETTE-MAIL,
-----By Counsel-----

/s/ Sean P. McGinley
Sean P. McGinley, Esquire, Bar No. 5238
DIPIERO SIMMONS MCGINLEY
& BASTRESS, PLLC
604 Virginia Street, East
Charleston, WV 25301
(304) 342-0133

¹Plaintiff in his First Amended Complaint misidentifies the “The Charleston Gazette-Mail” as the “owner of the Charleston Gazette,” and also misidentifies the name of the newspaper in which the column about which he complains appeared. First Amended Compl. at ¶ 71. HD Media, LLC is the owner of the Charleston Gazette-Mail, which is the correct name of the newspaper in which the column at issue in ¶ 212 of the First Amended Complaint appears.

CERTIFICATE OF SERVICE

I, Sean P. McGinley, hereby certify that on this 16th day of August, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all CM/ECF participants, including:

Jeffrey S. Simpkins
SIMPKINS LAW
102 E. 2nd Avenue
Williamson, WV 25661
Telephone: 304.235.2735

Eric P. Early (CA 166275) (pro hac vice)
Jeremy Gray (CA 150075) (pro hac vice)
Kevin S. Sinclair (CA 254069) (pro hac vice)
EARLY SULLIVAN WRIGHT GIZER & MCCRAE
6420 Wilshire Boulevard, 17 Floor
Los Angeles, CA 90048
Telephone: 323.301.4660

/s/ Sean P. McGinley, Esq.
Sean P. McGinley, Esquire (WV Bar # 5836)